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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 RICKEY CALHOUN,

11 Plaintiff,

12 vs.

13 REGINA HOOK,

14 Defendant.

Case No. 08-5697-RJB-KLS

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of U.S. Magistrate Judge Karen L. Strombom. Dkt. 41. The Court has considered the Report and Recommendation, Plaintiff's objections (Dkt. 42), and the record herein.

The Report and Recommendation thoroughly discusses the facts and law at issue here, and it should be adopted. The defendant moves to dismiss the plaintiff's civil rights complaint on *res judicata* grounds and for failure to state a claim. Dkt. 41. While the Report does not recommend dismissal on *res judicata* grounds, the Report does recommend dismissing the plaintiff's case for failing to state a cognizable claim of retaliation against the defendant under 42 U.S.C. § 1983. *Id.* Furthermore, the Report recommends dismissing without leave to amend the plaintiff's complaint based on the incurable defects in the plaintiff's pleadings. *Id.*

Although the plaintiff filed an objection to the Report, his objections simply state his disagreement with the Report and raise no new legal arguments. Dkt. 42. Even though the plaintiff is litigating *pro se*, the court sees no utility in allowing the plaintiff to amend his complaint. *See Lucas v. Dep't of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995) (stating that unless it is absolutely clear that no amendment can cure the

1 defect, a *pro se* litigant is entitled to notice of the complaint's deficiencies and an opportunity to amend
2 prior to dismissal of the action.). The plaintiff has already amended his complaint once, and as the Report
3 states, further amendment would not cure the failures of his pleading.

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5 The Court hereby **FINDS** and **ORDERS**:

6 1. The court adopts the Report and Recommendation (Dkt. 41); and
7 2. Defendants' Motion for Judgment on the Pleadings (Dkt. 17) is **GRANTED**, and Plaintiff's
8 Amended Complaint (Dkt. 9) is **DISMISSED**.

9 The Clerk is directed to send copies of this Order to plaintiff, all attorneys of record, and to the
10 Hon. Karen L. Strombom.

11 DATED this 14th day of December, 2009.

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14 Robert J. Bryan
United States District Judge
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